

(c) At the Administrator's request, the Lender will periodically meet with the Administrator to ascertain how the guaranteed loan is being serviced and that the conditions and covenants of the loan documents are being enforced.

(d) The Lender must obtain and forward to the Administrator the Borrower's annual financial statements within 120 days after the end of the Borrower's fiscal year and the due date of other reports as required by the loan documents. The Lender must analyze the financial statements and provide the Agency with a written summary of the Lender's analysis and conclusions, including trends, strengths, weaknesses, extraordinary transactions, and other indications of the financial condition of the Borrower.

(e) Neither the Lender nor the Holder shall alter, nor approve any amendments of, any loan instrument without the prior written approval of the Administrator.

PART 261—CREDIT ASSISTANCE FOR SURFACE TRANSPORTATION PROJECTS

AUTHORITY: Secs. 1501 *et seq.*, Pub. L. 105–178, 112 Stat. 107, 241, as amended; 23 U.S.C. 181–189 and 315; 49 CFR 1.49.

SOURCE: 64 FR 29753, June 2, 1999, unless otherwise noted.

§ 261.1 Cross-reference to credit assistance.

The regulations in 49 CFR part 80 shall be followed in complying with the requirements of this part. Title 49 CFR part 80 implements the Transportation Infrastructure Finance and Innovation Act of 1998, secs. 1501 *et seq.*, Pub. L. 105–178, 112 Stat. 107, 241.

PART 262—IMPLEMENTATION OF PROGRAM FOR CAPITAL GRANTS FOR RAIL LINE RELOCATION AND IMPROVEMENT PROJECTS

Sec.

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AUTHORITY: 49 U.S.C. 20154 and 49 CFR 1.49.

SOURCE: 73 FR 39886, July 11, 2008, unless otherwise note.

§ 262.1 Purpose.

The purpose of this part is to carry out the statutory mandate set forth in 49 U.S.C. 20154 requiring the Secretary of Transportation to promulgate regulations implementing a capital grants program to provide financial assistance for local rail line relocation and improvement projects.

§ 262.3 Definitions.

Administrator means the Federal Railroad Administrator, or his or her delegate.

Allowable costs means those project costs for which Federal funding may be expended under this part. Only construction and construction-related costs will be allowable.

Construction means supervising, inspecting, demolition, actually building, and incurring all costs incidental to building a project described in § 262.9 of this part, including bond costs and other costs related to the issuance of bonds or other debt financing instruments and costs incurred by the Grantee in performing project related audits, and includes:

- (1) Locating, surveying, and mapping;
- (2) Track and related structure installation, restoration, and rehabilitation;
- (3) Acquisition of rights-of-way;
- (4) Relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;
- (5) Elimination of obstacles and relocation of utilities; and
- (6) Any other activities as defined by FRA, including architectural and engineering costs, and costs associated with compliance with the National Environmental Policy Act, National Historic Preservation Act, and related statutes, regulations, and orders.

FRA means the Federal Railroad Administration.

Improvement means repair or enhancement to existing rail infrastructure, or construction of new rail infrastructure, that results in improvements to the efficiency of the rail system and the safety of those affected by the system.

Non-federal share means the portion of the allowable cost of the local rail line relocation or improvement project that is being paid for through cash or in-kind contributions by a State or other non-Federal entity or any combination thereof.

Private entity means any domestic or foreign nongovernmental for-profit or not-for-profit organization.

Project means the local rail line relocation or improvement for which a grant is requested under this section.

Quality of life means the level of social, environmental and economic satisfaction and well being a community experiences, and includes factors such as first responders' emergency response time, impact on emergency services, accessibility to the disabled as required under the Americans with Disabilities Act and section 504 of the Rehabilitation Act of 1973 (as amended), school access, safety, traffic delay and congestion, the environment, grade crossing safety, and noise levels.

Real property means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

Relocation means moving a rail line vertically or laterally to a new location. Vertical relocation refers to raising above the current ground level or sinking below the current ground level a rail line. Lateral relocation refers to moving a rail line horizontally to a new location.

Secretary means the Secretary of Transportation.

State except as used in § 262.17, means any of the fifty United States, a political subdivision of a State, and the District of Columbia. In § 262.17, *State* means any of the fifty United States and the District of Columbia.

Tangible personal property means property, other than real property, that has a physical existence and an intrinsic value, including machinery, equipment and vehicles.

§ 262.5 Allocation requirements.

At least fifty percent of all grant funds awarded under this section out of funds appropriated for a fiscal year shall be provided as grant awards of not more than \$20,000,000 each. Designated, high-priority projects will be excluded from this allocation formula. FRA will adjust the \$20,000,000 amount to reflect inflation for fiscal years beginning after fiscal year 2006 based on the materials and supplies component from the all-inclusive index of the *AAR Railroad Cost Indexes*.

§ 262.7 Eligibility.

(a) A State is eligible for a grant from FRA under this section for any construction project for the improvement of the route or structure of a rail line that either:

(1) Is carried out for the purpose of mitigating the adverse effects of rail traffic on safety, motor vehicle traffic flow, community quality of life, or economic development; or

(2) Involves a lateral or vertical relocation of any portion of the rail line.

(b) Only costs associated with construction as defined in § 262.3 will be considered allowable costs.

§ 262.9 Criteria for selection of projects.

Applicants must submit evidence sufficient for the FRA to determine whether projects proposed for Federal investment are cost-effective in terms of the benefits achieved in relation to the funds expended. To that end, the FRA will consider the anticipated public and private benefits associated with each rail line relocation or improvement project. In evaluating applications, FRA will consider the following factors in determining whether to grant an award to a State under this part.

(a) The capability of the State to fund the rail line relocation project without Federal grant funding;

(b) The requirement and limitation relating to allocation of grant funds provided in § 262.5;

(c) Equitable treatment of various regions of the United States;

(d) The effects of the rail line, relocated or improved as proposed, on motor vehicle and pedestrian traffic,